

MEETING MINUTES, BOARD OF ZONING APPEALS, JANUARY 14, 2008

Present: Phil Tinkle, Shan Rutherford, Ken Knartzter, Shawna Koons-Davis, City Attorney, William Peebles, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

ELECTION OF OFFICERS

Chairman & Vice-Chairman – Rutherford moved that officers remain the same for 2008 as in 2007 (Tinkle, Chairman; Rutherford, Vice-Chairman), seconded by Knartzter. Vote for **approval** was unanimous, 3-0. **Motion carried.**

PREVIOUS MINUTES

December 10th – Knartzter moved to approve the minutes as mailed, seconded by Rutherford. Vote for **approval** was unanimous, 3-0. **Motion carried.**

Board member Campbell arrived at this time.

FINDINGS OF FACT

Docket V2007-028 – Dimensional Variance – Community Church of Greenwood – Knartzter moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-028, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-029 – Dimensional Variance – Greenwood Park Mall – Rutherford moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-029, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

NEW BUSINESS

Docket V2008-001 – Dimensional Variance – Devonshire II Apartments – located at 1651 W. Curry Rd. – request variance(s) from developmental standards (floor area ratio, open space ratio and livability space ratio) – Devonshire II, LLC, applicant; Maurer Surveying, representing.

Paul Maurer, Maurer Surveying, came forward and was sworn. Mike Printz, Devonshire Apts. was also present.

The petitioner addressed the statutory criteria as follows:

Floor area ratio (0.44 – maximum 0.40 permitted by ordinance):

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The request seeks to establish a multi-family residential development at a density well below the maximum allowed; therefore, the impact of this proposal would be substantially similar to development as the Floor Area Ratio requirement.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is zoned for multi-family residential development by right and the small increase in the Floor Area would not have any impact on the adjacent properties since the adjacent properties are either multi-family residential in nature or would be buffered with required yards.

3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The reduction in the floor area ratio would result in the construction of smaller units which is not consistent with the market demand currently being serviced by this proposal.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The property is outside the airspace overlay district and is located 20,455 feet from the runway of the nearest public use airport.

Open space ratio (1.82 – minimum 2.65 required by ordinance):

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The request seeks to establish a multi-family residential development at a density well below the maximum allowed.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is zoned for multi-family residential development by right and the adjacent properties are either multi-family residential in nature or would be buffered with required yards.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The current open space ratio acts as a second, and more restrictive, Floor Area ratio for suburban development patterns that do not utilize the roof for useable open space.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The property is outside the airspace overlay district and is located 20,455 feet from the runway of the nearest public use airport.

Livability space ratio (1.12 – minimum 1.65 required by ordinance):

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The request seeks to establish a multi-family residential development at a density well below the maximum allowed.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is zoned for multi-family residential development by right and the adjacent properties are either multi-family residential in nature or would be buffered with required yards.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The livability space ratio describes the amount of open space that potentially could be used for passive and active recreational amenities. Since the actual amount devoted to those uses is nearly 5 times that required by the Ordinance, the fact that less could potentially be used is not relevant.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The property is outside the airspace overlay district and is located 20,455 feet from the runway of the nearest public use airport.

Jerry Larimore, 1593 W. Curry Rd., Grwd, came forward and was sworn. He is adjacent to the east of this property. When this property was originally developed and presented it was to be condominiums. Now it is proposed to be 3 story apartment buildings. Concerned about drainage onto his property.

John Moore, 1610 W. Curry Rd., Grwd, inquired about the density proposed.

Maurer came forward for rebuttal. He pointed out where the drainage will flow on the drawing he presented to the Board. Capacity for the sewer system has been reserved through the City. A passing blister and decel lane will be installed and Curry Rd. will be resurfaced along this property. The density will be 17 units per acre. 20 units per acre is allowed in this zoning.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford stated he is concerned about the proposed layout of the apartments in relation to the existing home(s) in the area. He feels it could adversely affect the adjacent properties. Knartzer pointed out that the proposed density is less than what is allowed for this property.

Floor area ratio:

Campbell moved that based on the evidence presented that the Board approve the granting of a dimensional variance for floor area ratio of 0.44 (maximum 0.40 permitted by ordinance) to Devonshire II Apartments located at 1651 W. Curry Rd. with the following conditions to which Petitioner agreed:

- 1) The architectural quality of the proposed buildings shall be substantially consistent with the existing development pattern; therefore, architectural renderings of the proposed buildings shall be submitted with an application for development plan review.

Seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Open space ratio:

Knartzer moved that based on the evidence presented that the Board approve the granting of a dimensional variance for open space ratio (1.82 – minimum 2.65 required by ordinance) to Devonshire II Apartments located at 1651 W. Curry Rd. with the following conditions to which Petitioner agreed:

- 1) The architectural quality of the proposed buildings shall be substantially consistent with the existing development pattern; therefore, architectural renderings of the proposed buildings shall be submitted with an application for development plan review.

Seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Livability space ratio:

Campbell moved that based on the evidence presented that the Board approve the granting of a dimensional variance for livability space ratio (1.12 – minimum 1.65 required by ordinance) to Devonshire II Apartments located at 1651 W. Curry Rd.

Seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decisions on all the variance requests presented in Variance Petition Number V2008-001, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2008-002 – Dimensional Variance – Panda Express – located at 331 S. St. Rd. 135 – request to allow additional wall sign on north side of building – Meridian Market Shoppes, LLC, owner; Atlas Sign Co., representing.

This item was automatically continued to February 11, 2008, due to improper newspaper notice.

ANNOUNCEMENTS/REPORTS

Mr. Peeples announced that the Planning Director is attempting to set up training on Wednesday, January 23, 2008 for members to participate in a Video Seminar Series being presented by the Purdue Extension Office. The regularly scheduled Training Session for Monday, January 28, 2008 would then be cancelled. Members will be sent notification about details as soon as possible.

Campbell moved to adjourn, seconded by Rutherford. Vote for **approval** was unanimous, 4-0.
Motion carried. Meeting was adjourned at 6:40 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman